Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for	)	WC Docket No. 07-135
Local Exchange Carriers	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier	)	CC Docket No. 01-92
Compensation Regime	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109

COMMENTS OF THE
TELECOMMUNICATIONS ASSOCIATION OF MAINE

Filed April 18, 2011

The Telecommunications Association of Maine (TAM) offers the following Comments in response to the **Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking**, Released February 9, 2011, in the above captioned proceeding (hereinafter "*NPRM*").[1] TAM is a trade association comprised of Incumbent Local Exchange Carriers in Maine. TAM generally agrees with the filing of the Rural Associations and offers the following as additional information to inform the FCC's decision in the above captioned proceeding. TAM wishes to emphasize its support of the Rural Associations' proposed transition plan for rural rate-of-return carriers as an alternate path for rate of return carriers who have already made significant investments in advanced communications services in rural America that would capitalize on their successes rather than forcing them to adopt an incentive structure that has failed to provide the same degree of success by the larger carriers in bringing broadband to rural parts of the nation. While most often employed in the medical field, the principle of "First, Do No Harm" has equal applicability when addressing a major restructuring of the

[1] TAM's position is the position of the Board of Directors as a whole and should not be ascribed to any individual company or companies. Individual companies are free to take their own positions as they deem appropriate, whether such position is in accordance with or in opposition to the position taken by TAM.

telecommunications opportunities throughout the nation. TAM believes that the Rural Associations' proposal is a reasonable and responsible method for ensuring that rural Americans do not fall through the cracks as the FCC pushes forward with its reworking of the telecommunications landscape.

Empirical Data Does Not Justify the Proposed Reworking of High Cost Support

The bases cited by the FCC for reform of USF and ICC are fundamentally flawed and fail to support the sweeping changes recommended by the FCC that would severely disadvantage rural Americans by forcing them to pay more for comparable services offered to urban Americans. By refocusing USF support into a new Connect America Fund aimed at addressing the "rural-rural divide" and effectively eliminating intercarrier compensation, the FCC is rewarding the large companies, especially the former Regional Bell Operating Companies (RBOCs), who exercised their discretion under incentive regulatory structures to refrain from investing in broadband in many of their rural high cost service areas. The result of the FCC's proposal will be higher rates for basic connectivity for rural Americans who have been served well by non-RBOC ILECs and a strong signal that rural Americans should expect to remain second-class citizens for the foreseeable future when it comes to availability of broadband service.

The numbers used by the FCC fail to support the argument that incumbent support has caused the High Cost Fund to grow to newly unsustainable levels. The numbers cited are a shift from $2.6 billion in high cost support in 2001 to $4.3 billion in 2010, supposedly demonstrating a "broken" fund. However, the FCC fails to note that this increase is exclusively due to duplicative payments made to wireless ETCs in that time period. In Figure 2 on page 11 of the *NPRM*, the FCC shows that the 2010 breakdown of High Cost Support is $3.05 billion for incumbent support and $1.2 billion for competitive ETC support. The incumbent high cost support has actually gone from $2.6 billion in 2001 to $3.05 billion in 2010. However, when you adjust for inflation, the 2010 value of the incumbent High Cost Support from 2001 would be $3.2 billion. So despite the FCC's contention that costs to incumbents have expanded, the actual adjusted amount paid to incumbent ETCs has ***gone down*** on the order of $150 million. The FCC undermines its own premise through the use of non-adjusted fiscal data and merging in wireless ETC support as a basis to show how the incumbent High Cost Support is inefficient. All the data shows is that the growth of the high cost fund is properly assigned to inflation and the growth of duplicative support for wireless providers. Despite this fact, through the use of these flawed numbers and by ignoring the impact of wireless ETC payments over the past 10 years to radically undercut Universal Service for customers of incumbent providers, the FCC is simultaneously proposing to divert High Cost Support funds to a new Mobility Fund. So once again, the FCC is proposing to reward those who have driven up the costs of the program while actively disadvantaging rural Americans and those rate of return companies that fulfilled their responsibilities by investing in their networks to ensure that rural Americans continued to receive comparable service at comparable rates.

Incentive Based Regulation Caused the Rural-Rural Divide. Removing Rate of Return Regulation Would Make Things Worse, Not Better.

The FCC also proposes to drive rate of return carriers to incentive regulation as part of their overarching plan for reworking Universal Service. The Maine experience does not support this assumption. The FCC is apparently oblivious to the fact that it was incentive regulation that created the "rural-rural divide". Specifically RBOCs, such as Verizon, were placed under incentive regulation throughout the Nation and told to develop their networks using market driven approaches. They did this extremely well to the benefit of the RBOCs and non-rural customers. The problem is that market driven approaches mean investing money where you will get the greatest return. In the case of Verizon-New England this meant investing heavily in Boston, Massachusetts and bringing FiOS to Manchester, New Hampshire, but leaving rural Maine with little or no internet connectivity. Moreover, the *NPRM* criticizes the existing rate of return regulation because "there are few, if any, benchmarks for determining whether network investment is justified or appropriate, allowing a company to spend millions of dollars to build a state-of-the art network that may serve only a few customers." *NPRM*, at 12. This is an unfounded complaint aimed at rate of return carriers given that the FCC throughout the *NPRM* stresses the need to transition the entire nation to a state of the art network that can support future needs. It would be inappropriate to punish Rate of Return companies for being ahead of the curve in proactively bringing broadband service to rural communities throughout the nation. The reality is that most, if not all, of the rate of return carriers in Maine have 90% or greater broadband penetration within their exchanges. This is compared to the 70% broadband penetration Verizon had provided under incentive regulation before they left the State of Maine. These Maine facts simply do not support the contention of the FCC that incentive regulation can or will promote broadband deployment in rural America.

The Proposal Would Likely Result In Non-Comparable Pricing Between Rural and Urban Customers In Violation of §254 of the Telecommunications Act of 1996.

TAM is concerned that the proposed plan would effectively de-list voice as a supported service under the Universal Service Fund. Beyond the policy question of the appropriateness of this decision, it is in direct violation of the law. Specifically, §254(b)(3) of the Telecommunications Act of 1996 states:

> "ACCESS IN RURAL AND HIGH COST AREAS.—Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas."

While this clearly opens the door for supporting broadband service in rural areas, it also unequivocally requires that telecommunications services, including basic voice service, continue to be provided at comparable rates to urban areas. Throughout the National Broadband Plan there are broad concepts discussing big picture issues and ignoring one of the most, if not the most, important item to the average American: the cost of the monthly bill. This *NPRM* follows in the footsteps of the National Broadband Plan by sidestepping the question of what the customer's monthly rate for telephone service or internet service will be after implementation of the proposed changes. Throughout the *NPRM*, the FCC appears to consider USF a subsidy to companies, when in actuality it is a cost sharing offset that allows rural Americans to have the same opportunities and access to services as urban Americans.

The proposals in this *NPRM*, and in the National Broadband Plan generally, seek to force higher costs on rural Americans for basic voice service by requiring a redistribution of support to strictly broadband services. Maine's rate of return companies have calculated the monthly impact on their voice customers as a result of the proposed rearrangement of the USF into the CAF, complete with elimination of Intercarrier Compensation. The formula used calculates the existing revenue requirement of the company and compares it to the calculation of the revenue requirement revised for the changes proposed in the NPRM, including: reducing High Cost Loop Support, removing Local Switching Support and Safety Net Additive Support, and reducing Interstate Common Line Support by removing Corporate Operations Expenses. Currently, companies in Maine operate efficiently. Several years ago, Maine required all intrastate access rates to be reduced to the interstate level and simultaneously expanded the local calling areas for all companies. Companies were required to increase internal efficiencies and raise their rates in order to account for the revenue losses associated with this rate-rebalancing. As a result, monthly rates for basic service in Maine range from about $17 to $20. Additionally, competition from wireless and fixed-VoIP cable providers in portions of TAM's members' service areas has required companies to decrease prices wherever possible to remain competitive. As such, Maine's rural companies are stuck in a situation where they cannot raise rates without becoming less competitive and thereby losing revenues, while at the same time having no means of offsetting the revenue losses that the proposals in the *NPRM* would cause. TAM polled its members who would be affected by the *NPRM* proposals and received the following per-month-per-customer revenue impact information:

- Company A $7.42
- Company B $7.29
- Company C $13.23
- Company D $9.92
- Company E $8.79
- Company F $9.39
- Company G $15.98

If these were all recovered through basic rates, these increases represent on average a nearly 50% increase over current monthly rates in Maine. These higher end-user rates required to provide service in high cost rural areas would not be sustainable. During a time of economic struggle with the Country still attempting to recover from a devastating recession, it would be highly inappropriate to punish rural Americans through forced rate increases. Moreover, the dramatic rate increases to voice service would likely be illegal under §254(b)(3) as they would violate the statutory obligation to establish comparable service at comparable rates between rural and urban portions of the Country. It is Congress, not the FCC, that has the authority to set policy. Unless and until Congress changes the policy of comparable voice service for comparable rates, it is the law of the land, and the FCC is legally obligated to comply. Accordingly, any changes to the USF must be done in a manner that ensures the ongoing comparability of rates and service for voice as well as broadband, something that the current proposals quite simply fail to do.

Respectfully Submitted,

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